

BILKENT UNIVERSITY
INSTITUTE OF ECONOMICS AND SOCIAL SCIENCES

A POST - COLD WAR EXPERIENCE
IN
SELF-DETERMINATION AND SECESSIONISM
(THE YUGOSLAV CASE)

BY
ALI TUNCAV

A THESIS SUBMITTED TO THE DEPARTMENT OF
INTERNATIONAL RELATIONS
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS

DECEMBER, 1993

JN
9662
.786
1993

BILKENT UNIVERSITY
INSTITUTE OF ECONOMICS AND SOCIAL SCIENCES

A POST - COLD WAR EXPERIENCE
IN
SELF-DETERMINATION AND SECESSIONISM
(THE YUGOSLAV CASE)

BY
ALİ TUNCAY

Ali Tuncay
tarafından bağışlanmıştır.

A THESIS SUBMITTED TO THE DEPARTMENT OF
INTERNATIONAL RELATIONS
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS

DECEMBER, 1993

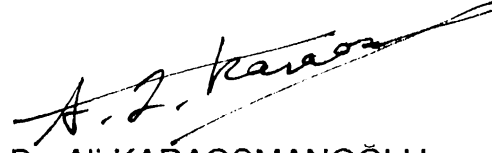
JN
3662
.T86
1993

B0017051

A. L. Kevan

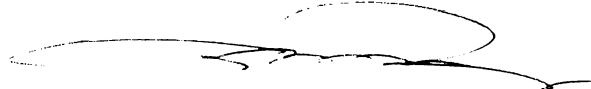
Approved by the Institute of Economics and Social Sciences.

I certify that I have read this thesis and in my opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in International Relations.



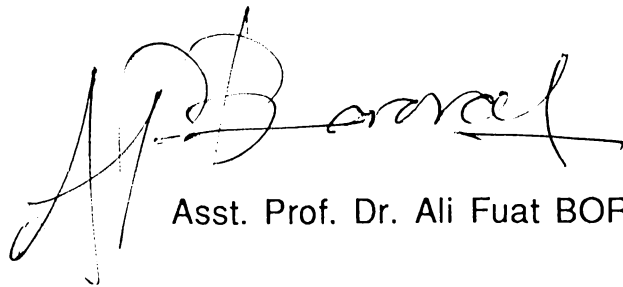
Prof. Dr. Ali KARAOSMANOĞLU

I certify that I have read this thesis and in my opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in International Relations.



Prof. Dr. Yüksel İNAN

I certify that I have read this thesis and in my opinion it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in International Relations.



Asst. Prof. Dr. Ali Fuat BOROVALI

ABSTRACT

This study aims at analyzing the established normative structure towards the principle of self-determination of peoples and the of principle territorial integrity of states, and implications of the Yugoslav crisis to these concepts.

The principle of self-determination has been applied with reference to decolonization. The dismemberment of colonial empires was legitimized but secession from a UN member state was not. The principle of territorial integrity were related to the prohibition of use of force againsts the territorial integrity of a state by external and internal elements. Secessionist attempts are regarded as against the territorial integrity principle.

The Yugoslav crisis has implied that frontiers can only be changed through negotiated settlement, if not the principle of *uti possidetis* applies to the case and international community have not yet been able to develop international law with a universal application to the question of which people qualifies for self-determination.

ÖZET

Bu çalışma bu güne kadar kurulmuş hukuksal yapı doğrultusunda halkların self determinasyonu ile devlet ülkesinin bütünlüğü ilkeleri ve Yugoslavya krizinin bu kavramlara etkisini incelemeyi amaç edinmiştir.

Self determinasyon ilkesi sömürgelerin bağımsızlığı ile ilgili uygulanmıştır. Sömürge imparatorluklarının dağılması yasallaştırıldı fakat Birleşmiş Milletler üyesi bir devletten ayrılma yasallaştırılmadı. Ülkenin bütünlüğü ilkesi, iç ve dış unsurların devletin bütünlüğüne karşı kuvvet kullanımını yasaklar ve bununla birlikte ayrılıkçı girişimler ülke bütünlüğü ilkesine aykırı addedilmiştir.

Yugoslavya krizi sınırların sadece görüşmeler yolu ile değiştirilebileceğini göstermiştir. Eğer bu yolla değiştirilemezse uti possidetis ilkesi uygulanır. Uluslararası hukukta hangi halkın self determinasyona yeterli olduğu hakkında evrensel bir uygulama geliştirilememiştir.

ABBREVIATIONS

Art.	Article
CSCE	Conference on Security and Cooperation in Europe
EC	European Community
FEC	Federal Executive Council
GA	General Assembly
ICJ	International Court of Justice
OAU	Organization of African Unity
Res.	Resolution
SC	Security Council
UN	United Nations
UNPROFOR	United Nations Protection Force
US	United States
USSR	Union of Soviet Socialist Republics

TABLE OF CONTENTS

INTRODUCTION

Background

Definitions of the Terms

Purpose of the Study

Outline of the Study

PART ONE

SELF-DETERMINATION vs TERRITORIAL INTEGRITY

- I The Principle of Self-Determination
 - 1.1 Historical Development
 - 1.2 Wilson and Lenin
 - 1.3 The League of Nations.
 - 1.4 The United Nations Charter
 - 1.5 Decolonization and the UN
 - 1.6 Regional Interpretation
 - 1.7 Normative Approach
 - 1.7.1 Principle or Right
 - 1.7.2 Which People Qualifies for Self-Determination
- II The Principle of Territorial Integrity
 - 2.1 The League of Nations and the United Nations
 - 2.2 The UN Approaches Towards Territorial Integrity
 - 2.3 "Uti possidetis" and Other Regional Approaches
 - 2.4 Constitutional Law and Territorial Integrity
- III How to reconcile the two Principles

PART TWO

A CASE STUDY: THE YUGOSLAV CRISIS

I Characteristics of Yugoslavia

1.1 History

1.2 Constitutional and Governmental Characteristics

1.3 Ethnic Composition

II The Crisis

2.1 Internal Developments

2.2 Dealing with the crisis

2.2.1 Conference on Security and Cooperation in Europe

2.2.2 The United Nations

2.2.3 European Community

2.2.4 Individual State Approach

CONCLUSION

FOOTNOTES

BIBLIOGRAPHY

INTRODUCTION

Background

The principle of national unity and territorial integrity has been universally accepted by the international community. African states, which were among the leaders in developing the post-1945 "right" of self-determination in the context of decolonization, have adopted a very narrow interpretation of the right in the post colonial context of independence movements, because of their ethnic heterogeneity. Territorial integrity of states has been affirmed by the United Nations resolutions. The United Nations also found itself using its "peace keeping force" to crush the secession of Katanga. The principle of "uti possidetis" has been accepted as part of the international normative practice.

Self-determination of peoples has gained importance with the disintegration of multinational federal structures of Eastern Europe. The Soviet Union, Yugoslavia and recently Czechoslovakia disintegrated. Federal entities in those countries, under the concept of "self-determination" have chosen to form their own states. Until recently, self-determination has been used as a tool for the freedom of peoples living under foreign domination, namely the colonies. Self-determination was equated with decolonization but the problem arose with claims by the peoples living under an already established state. It is clear that when we look at the ethnic composition of states, we see that they are not completely homogeneous and many people living on those territories are claiming their right of self-determination. But the international community of states has not accepted such a right other than decolonization process since 1945. The only deviation during this period was the secession of East Pakistan (Bangladesh) from Pakistan.

Definitions of the Terms

The right of self-determination is the right of a people living in a territory to determine the political and legal status of that territory (1). The right of self-determination has two distinct meanings, one being external and the other one internal. The external meaning of self-determination implies claims involving the establishment of a new state (2) or choosing the state to which they wish to belong (3), and this right must be used without interference or coercion by other states (4). Under the UN and state practice since 1960 this has gained the meaning as the right to freedom from a former colonial power (5). If it is not a foreign invading power but a native dictator the concept of self-determination has nothing to do with the external aspect. If it is a native dictator and there is a demand for self-determination, this is regarded as part of the domestic affairs of that state and support for such a secessionist demand is regarded as interference in the internal affairs of that state. Application of external self-determination may result in the emergence of a sovereign independent state, free association with an independent state, or integration with an independent state (6).

The internal aspect of self-determination means the right of all segments of a population to influence the constitutional and political structure of the system under which they live (7). Internal aspect of self-determination does not involve claims of the establishment of a new state. It involves claims of an entity free of external coercion, claims of a people to overthrow their effective rulers and establish a new, authoritative government in the whole of an entity and claims of a group within an entity to such protection as autonomy (8). In short, it is the free choice of government, namely democracy (9).

Territorial integrity of states means that a state's territory which was established according to the rules of International law cannot be divided or cannot be the issue of acts which would break it into pieces without the approval of the state concerned. As a logical consequence all other states have to respect this integrity (10).

Purpose of the Study

Today we are witnessing the resurgence of secessionist nationalism, and there is a challenge to the territorial status quo of the world that has been shaped during Cold War years. Prior to the Yugoslav secessionist crisis, it was generally accepted that there were no "cracks" in the existing regime of self-determination. The successful independence of Croatia and Slovenia were a challenge to the status quo. The Yugoslav crisis posed many questions. For example, do these events mean that the existing normative regime is on the verge of change? Since many existing constitutional structures ban such movements, are these limited to those countries that allow secession in their constitutional structures? How has the international community interpreted the Yugoslav crisis? These are the questions that must be answered.

On the other hand, secessionist self-determination is fraught with problems such as indefinite divisibility, as we have seen in Croatia and Bosnia. Although the majority decided for independence, minorities are also trapped in those countries who also claim independence or, wish to unite with another state. Instead of secessionist self-determination, some scholars are advocating self-determination in the context of "self-development" [development of cultural, democratic and minority rights], within existing structures instead of secession. Such rights are also included in the CSCE document and the Paris Charter.

In the light of these discussions, the Yugoslav experience gains importance. The aim of this research is to inquire whether secessionist self-determination has gained a new meaning after these experiences or, whether these are limited to ex-communist, eastern European federal structures or not. Such problems need to be solved because it is a recent phenomenon that the world has faced unprepared and the existing normative structure does not fit to the changes that we confront. Through this research, we will try to inquire established normative structure, the challenges that were faced under the experience of the recent Yugoslav crisis and, if possible, try to forecast the future of the concept of secessionist aspect of self-determination.

Outline of the Study

The first part of this study is a review of the development of self-determination in its historical context. It looks at how the concept of self-determination developed and how it was interpreted by the League of Nations and the international community. Then we will look at developments at the United Nations, the process of decolonization and how the concept of self-determination was being interpreted prior to the Yugoslav case. Concepts, such as whether self-determination is a "right" or "principle", "territorial integrity" and "which people qualifies for self-determination" and "secession" will be analysed and we will look into how the world has reacted to secessionist cases before the Yugoslav experience. The regional interpretation of self-determination will also be analyzed from different perspectives. At the end of this part, ways will be sought to reconcile the territorial integrity of states with the self determination of peoples.

The second part starts with the evaluation of the constitutional, historical and ethnic characteristics of the Yugoslav case. This will be followed by the internal political developments and the demands of the parties in the crisis. The reaction of the international community will be analyzed at the organizational and state levels at the end of this chapter and a special emphasis will be given to the European Community and states at individual levels.

The last part of the study is devoted to the interpretation of the implications of the Yugoslav crisis for international law and we will try to make forecasts about the future of the secessionist aspect of self-determination in light of previous discussions.

PART ONE

SELF DETERMINATION VS. TERRITORIAL INTEGRITY

I The Principle of Self-Determination

1.1 Historical Development

The principle of self-determination owes its existence to at least two threads of philosophical thought. The principle of equality of men and the idea of social contract between the government and the governed (1). Despite these ancient roots, it was not until the birth of democracy in its modern form in the second half of the eighteenth century that the idea of self-determination really began to take root. This principle first became influential as a result of the 1789 French Revolution when it arose in the international thought under the name of "Principe des nationalites," putting forth that every national group had the right to establish an independent state(2). Historically, the nationalism principle of French Revolution had great effects on the dissolution of ethnically multinational Ottoman empire in the Balkans during nineteenth century. The principle of self-determination by national groups developed as a natural corollary of developing nationalism in the eighteenth and nineteenth the centuries (3) but it was not until the second half of the twentieth century that the principle of self-determination developed with the decolonization process.

1.2 Wilson and Lenin

At the beginning of the twentieth century the principle of self-determination had begun to take its place in the legal terminology of international normative practice. The roots of such a development had begun to emerge with the two prominent politicians and thinkers, namely Lenin and Woodrow Wilson.

After World War I, President of the United States, Wilson championed the principle of self-determination of peoples. In his own words: "No peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed and that no right anywhere exists to hand people about from sovereignty to sovereignty as if they were property" (4). He also proposed self-determination and territorial revision in his "fourteen points." President Wilson's views were partially implemented after World War I when the allied powers redrew the map of Europe (5) but there was no reference to the possibility of territorial revision, as in the League of Nations Covenant (6) and it was not regarded as a legal principle (7).

The other person who was championing the principle of self-determination was Lenin. Lenin saw self-determination in the context of the "national question" which surrounded World War I (8). He regarded self-determination as follows: "The right of nations to self-determination implies exclusively the right to independence in the political sense, the right to free political separation from the oppressor nation. Specifically, this demand for political democracy implies complete freedom to agitate for secession. This demand is not equivalent of a demand for separation, fragmentation and the formation of small states. It implies only a consistent expression of struggle against all national oppression" (9).

Self-determination of peoples was supported by Lenin as its exercise would promote the interests of the class struggle. Secession was a tactic that must be used to fight against the oppressor nation, not to support bourgeois nationalists in oppressed nations and it was a tactical, rather than a philosophical decision (10).

1.3 The League of Nations

The principle of self-determination was not specifically mentioned in the League of Nations Covenant. Art. 22 (1) of the League of Nations Covenant refers to the colonies and the territories under the rule of the defeated powers. This article refers to the peoples of these territories unable as yet to stand by themselves under the strenuous conditions of the modern world" and who were to be placed under the responsibility of advanced nations. However there was not any obligation upon administering powers to ensure an eventual political independence, namely self-determination of peoples (11) and in the Namibia case the International Court of Justice (ICJ) interpreted this article as "the peoples inhabiting the mandated territories would be allowed to exercise a right of self-determination at some time in the future" (12) but it did not fix a date for the exercise of that right. There was no legal principle under the League arrangement, nor any substantive political support for developing the concept of self-determination (13).

In contrast, minority group rights played a prominent role in the theory and institutional structure of the League of Nations (14). Special minority duties were assumed by Germany and Poland under the "Upper Silesian" (1935) settlement and by Finland under the "Aaland Island" (1920) award (15). During the interwar years between 1919 and 1939 there was relatively little practice regarding self-determination in international law. Two examples, namely the "Saar Plebiscite" and the "Aaland Island" cases show how the League of Nations interpreted the principle of self-determination.

The coal-mining area of the Saar was placed under the administration of a League of Nations Commission for fifteen years, at the end of time which its fate was to be decided by a plebiscite (16). With the termination of this time (1935) the plebiscite was held, and the inhabitants were invited to choose between returning to Germany, uniting with France or the continuance of the League administration (17). The people choose to return to Germany.

In the Aaland Island case, two expert committees addressed the meaning of self-determination and whether it implied the possibility of secession from an existing state (18) and the committee decided that "positive international law does not recognize the right of national groups, as such, to separate themselves from the state of which they form part by the simple expression of a wish, generally speaking, the grant or refusal of the right to a portion of its population of determining its own political fate by a plebiscite or by some other method is, exclusively, an attribute of sovereignty of every State which is definitively constituted" concluding that it is "incompatible with the very idea of the State as a territorial and political unity" (19). In the end Swedish inhabitants were not given the right to secede and instead were placed under Finnish sovereignty and given certain minority guarantees (20). These two cases show how the League of Nations saw the principle of self-determination in the context of the settlement of disputes during World War I. The League avoided the interpretation of self-determination as a right to secede, and gave attention to minority protection because of the failure of border adjustments to eliminate minorities and the continuing political instability of Europe during the inter-war period (21).

Thus one can conclude that during the interwar years the principle of self-determination had little to do with the demands of the peoples concerned, unless those demands were consistent with the geopolitical

and strategic interests of the great powers (22) and never spread to the vast colonial territories.

1.4 The United Nations

With the establishment of the United Nations Organization a new chapter was opened in the development of the concept of self-determination. The principle of self-determination was included in the UN Charter. Under Art. 1 (2) "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace". Self-determination was mentioned as one of the purposes of the United Nations. Art. 55 reiterates this principle as "with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples". In the formulation adopted by the UN Charter, the sovereign state and the self-determining individual triumphed (23) and the idea that a minority group could possess such a right was eclipsed (24). Initially it was not recognized as a fundamental right of the United Nations regime established in 1945 (25), but mentioned as a goal that could be attained in the future (26) and the Charter spoke of a principle of self-determination and not as a legal right. In the formulation of self-determination the idea that a minority group could protect its rights was swept aside (27) and there was no reference to the possibility of territorial revision (28) and it is important to note that the UN Charter does not specify who is entitled to self-determination (29). A 1945 UN report explained that the principle conformed to the purposes of the charter "only insofar as it implied the right of self-government, and not the right of secession" (30).

1.5 Colonial Context

The United Nations was the focal point for heated debates which surrounded the development of the principle of self-determination. Its rapid expansion was due to the post - 1945 process of decolonization. The political pressure was caused by the changing composition of the United Nations and it was led to adopt many resolutions due to the new Third World members (31) and this was an important factor in the shifting interpretation of the Charter and the development of the right of self-determination in international law (32).

Self-determination of peoples has gained momentum with the decolonization process. National self-determination was accepted as a synonym for West European decolonization (33) but the Charter did not outlaw colonialism, instead required immediate steps to be taken for independence, or prescribed armed action against dependent peoples. Thus, the principle of self-determination was gradually applied to non-self-governing and trust territories (34).

The first General Assembly Resolution 1514 (XV) of 14 December 1960 on the "Declaration on the Granting of Independence to Colonial Countries and Peoples" dealt with this problem. Paragraph 2 of the Declaration states that "all peoples have that right to freely determine their political status and freely pursue their economic, social and cultural development" and against Western colonial powers which put forward the development level of the peoples as a corollary to independence, set the following terms as that of "inadequacy of political, social, economic or educational preparedness was not to serve as a pretext for delaying independence". But the declaration makes a clear distinction between the self-determining unit and secessionist demands. The declaration, while recognizing this right only for colonial situations, clearly takes its stand

against the secessionist movement. This "Colonial Declaration" set the terms for the self-determination debate in its emphasis upon the colonial context and its opposition to secession and has been regarded by some, as constituting a binding interpretation of the Charter of the United Nations (35).

The International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights, which were proclaimed by the General Assembly of the United Nations on 16 December 1966, have adopted, Art. 1 (1) clause 2 of General Assembly Resolution 1514 (XV). The principle of self-determination has been applied with reference to decolonization. The dismemberment of colonial empires was legitimized but secession from a UN member state was not.

This was followed by the General Assembly Resolution 2625 (XXV) of "Declaration on Friendly Relations" on 24 October 1970. During the discussions on this resolution, some members, notably the Eastern Block countries, particularly the USSR, favoured explicit recognition of a right to secession but the majority of the members said that they did not recognize secession as a legitimate form of self-determination (36). The Declaration states : "To bring speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned; and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle of self-determination." The people who benefit from such a right are exclusively the peoples under colonial rule (37) and the establishment of a sovereign and independent state, the free association or integration with an independent state or the emergence into any other political status freely determined by a people was mentioned as modes of implementing the right of self-determination by the people under colonial rule (38). The GA Res 2627

(XXV) of Declaration on the Occasion of the Twenty-Fifth Anniversary of the United Nations on 24 October 1970 reaffirmed "the inalienable right of all colonial peoples to self-determination" and territories like Namibia, Angola, Mozambique, Southern Rhodesia and Guinea (Bissau) were described as territories which had this right.

By its resolution 3382 (XXX) of 10 November 1975 the General Assembly reaffirmed the importance of the universal realization of the right of peoples to self-determination, and of speedy granting of independence to colonial countries and peoples as imperative for the enjoyment of human rights, and it further reaffirmed the importance of the legitimacy of the people's struggle for independence, territorial integrity, and liberation from colonial and foreign domination by all available means, including armed struggle. The importance of this resolution was that, "armed struggle" was defined as a legitimate means towards the attainment of independence from colonial rule (39).

With G.A. Res of 3101 (XXVIII) of 12 December 1973, UN established another criteria for self-determination other than colonial regimes. According to this, people living under racist regimes have the right to self-determination. This resolution was a clear denunciation of the South African racist regime's policy and practices of apartheid against the black majority there (40).

In the Western Sahara case the International Court of Justice clarified the meaning of self-determination. The ICJ in its advisory opinion defined the principle of self-determination "as a right of peoples and its application for the purpose of bringing all colonial situations to a speedy end". The Court regarded the principle of self-determination as legal one in the context of colonized territories (41).

In a separate opinion of the ICJ, Judge Petren expressed that "there is no need to recall the place of decolonization, under the aegis of the UN, in its present evolution of international law, inspired by a series of resolutions of the General Assembly, in particular, Resolution 1514 (XV), a veritable law of decolonization is on the course of taking shape. It derives essentially from the principle of self-determination of peoples proclaimed in the Charter, and it is confirmed by a large number of resolutions of the General Assembly (42). Here Judge Petren suggests that self-determination does have a place in international law and refers to the law of decolonization as the right to self-determination for colonies (43).

1.6 Regional Interpretation

Now it is useful to look at the regional interpretation of the principle of self-determination because as we know, different regions have different interpretations of this concept depending on the problems they face. In this respect the African interpretation has an important place together with Muslim and European perspectives.

The Organization of African Unity (OAU) has a specific role in the definition of the principle of self-determination in the African context. Under the OAU, political self-determination is generally equated with freedom from colonial rule (44). The Charter of the OAU does not specifically mention the right of peoples to self-determination and it talks only about the "eradication of all forms of colonialism from Africa" (45).

The African charter on Human and Peoples Rights (Banjul Charter) which was accepted in 1981 and came into force in 1985, and for the first time in the history of OAU, it mentioned the principle of self-determination in Art. 20(1): "All peoples shall have the right to existence.

They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen." But this right to self-determination is not viewed, as in Art 20 (1), as an unlimited right. The Banjul Charter sets the limits of this right of self-determination, in the same article under clause 2, as "colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community." The Banjul Charter thus describes the right of self-determination as unquestionable but limited with regard to political self-determination and only to the non-self-governing territories (46).

The Islamic world interpreted the concept of self-determination within its own interests. Muslim states have shown a certain leniency toward secession when it represented Muslim minorities in non-Muslim countries(48). The right of peoples to self-determination has been mentioned in the Charter of the Islamic Conference. The Charter of the Islamic Conference, while mentioning its emphasis on the elimination of colonization(49), has put special emphasis on the Muslim peoples, within Art II/6" to strengthen the struggle of all Muslim peoples with a view to safeguarding their dignity, independence and national rights". While the Islamic Conference gave support to the Palestinians and the secessionist attempt of Muslims in the Philipines it failed to give support to the Turkish Cypriots.

With the Helsinki Final Act, European states have managed to form a common policy towards the concept of self-determination. Although the Helsinki Act declares its "respect to the equal rights of peoples and their right to self determination (their internal and external politi-

cal status) it also set the limits to this demand by mentioning that "this must be in conformity with the purposes and principles of the Charter of the UN and with the relevant norms of international law including those relating to territorial integrity of states.

1.7 Normative Approach

1.7.1 Principle or Right

One of the most controversial issues in international law since the end of World War II, has been whether self-determination is a right in international law or simply a political principle. (49) Since 1945 there is an ongoing debate among the scholars in this respect. Saying that self-determination is a political principle implies that individual states ought to recognize it within their internal management and that the international community can use pressure of its opinion to move states in this direction (50). On the other hand, saying that self-determination is a legal right invests the peoples with a right independent of their governing states which can indeed be exercised in opposition to those states (51).

Self-determination first emerged as a political principle but with the inclusion of this concept in various General Assembly resolutions this debate has intensified. Many scholars agree that the inclusion of the concept of self-determination in the Charter of the United Nations does not transform the principle into a legal right (52). During the time of President Wilson, it was believed that all ethnic groups determined according to language, religion and culture had the right of self-determination (53). But in our days self-determination is viewed as a right for colonial people and cannot be used as a right to secede from an established state by an ethnic group (54). In the wording of various resolutions concerning the decolonization process the resolutions, self-determination has been men-

tioned as a "right" (55). Although some scholars put forward that the use of the word "right" instead of "principle" places self-determination as a right (56), it is clear that its interpretation by the world community, rather than its wording, is the major criterion in international law.

Many governments and scholars, from all regional and political perspectives, accept the right of peoples to self-determination (57). However according to Hurst Hannum, the right to self-determination will undoubtedly remain controversial in the context of specific situations, and the fundamental question is "whether the international right to self-determination has been recognized as applicable outside the context of decolonization" (57).

1.7.2 Which People Qualify for Self-Determination

Another major question concerning the concept of self-determination is the following one: "which people qualify for self-determination." The most important aspect of the principle of self-determination is its application to the "people" of a specific territory. First of all, those people must live in a non-self-governing territory [UNGA Res 1541 (XV)].

One of the main arguments about self-determination was whether this idea was applicable to peoples other than those living in colonial territories. The 'people' who will freely determine their own political status under the concept of self-determination are exclusively the peoples under colonial rule and it was regarded as the right of a majority within a colony or state (59). Even some jurists interpreted the law of self-determination as the law of decolonization applicable only to the colonial territories (60).

II The Principle of Territorial Integrity

The principle of self-determination of peoples contradicts with the principle of territorial integrity of states. The territory of a state comprises a more or less delimited land, internal waters and territorial waters (61). Other states have the correlative duty of respecting this base of state authority and this is needed to establish an international order (62). According to this principle a state which was established according to the rules of international law cannot be divided territorially and such attempts cannot be made by other states without the consent of that state concerned (63). The scope of secession is limited with land territory of states. The rules established during the decolonization process, were related to the prohibition of use of force against the territorial integrity of a state by external elements and necessary measures which would be taken against these attacks(64). With the decolonization process, this principle has gained a new meaning and secessionist attempts are regarded as against the territorial integrity principle together with external elements.

2.1 The League of Nations and The United Nations

The principle of territorial integrity was accepted for the first time as a general rule in the Covenant of the League of Nations. According to Art. 10 of the Covenant, "the Members of the League undertake to respect and preserve as against external aggression, the territorial integrity and existing political independence of all members of the League".

The same principle has been repeated in the Charter of the United Nations. Art 2(4) of the Charter states that: "All Members shall refrain, in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

There was no reference to internal threats against the territorial integrity of the member states, both in the Covenant and the Charter. Although Art 2(7) of the Charter declares that: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State, "but put an exception by declaring that enforcement measures can be applied to trust territories which are placed under the trusteeship system of the UN (65).

This principle has been reiterated through various UN General Assembly Resolutions concerning the decolonization process. The UN General Assembly Res of the "Declaration on the Granting of Independence to Colonial Countries and Peoples", paragraph 6, states that, "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations". The seventh and final paragraph reiterates "the sovereign rights of all peoples and their territorial integrity" (66). The General Assembly Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States declares that "nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race creed or colour" (67). The UN GA Res. of 2743 of 16 December 1970 declared that, "all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political in-

dependence; the duty not to intervene in matters within the domestic jurisdiction of any State, " and defined these threats or using force as "organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State." The GA Res. 40/9 of 8 November 1985 again called the states, "to refrain in international relations from threat or use of force against the sovereignty, territorial integrity and political independence of any other State", and to settle disputes between them through negotiations. From these resolutions the principle of self-determination cannot be used against the territorial integrity of states by minority groups within those states.

2.2 The UN Approach Towards Territorial Integrity

The UN approach to the principle of self-determination of peoples towards secessionist entities shows how the UN interpreted the principle of territorial integrity under such demands.

The secessionist demand of Katanga from Congo did not find support in the UN . In the case of Congo, in the province of Katanga, secessionists managed to establish their authority and the provincial authorities declared Katanga's secession from Congo with the help of the Belgian troops. On July 12 and 13, 1960 the President and Prime Minister of the Republic of Congo had asked the Secretary-General of the UN for the urgent dispatch of military assistance in order to protect Congolese national territory (68). The UN Security Council Res 145 (1960) of 22 July 1960 requested from all states to refrain from any action that might undermine the territorial integrity and political independence of the Republic of Congo and this resolution authorized the Secretary-General to take all necessary action to this effect. A UN force was organized and sent to the Republic of Congo . This force was empowe-

red to enter the province of Katanga for the restoration of the territorial integrity and political independence of the Republic of Congo (69). Pressure by African leaders in particular led to the adoption of the Security Council Res on 21 February and 24 November 1961 giving the UN forces the approval of the Council to end the Katangan secession by force if necessary (70). Finally, the United Nations "peace keeping forces" crushed the secession of Katanga from Congo.

Another example how the UN interpreted this concept is the secession of Bangladesh from Pakistan. The Bengali state was not recognized by the UN and the member states on the ground of an exceptional use of secessionist self-determination (71), however, after the Indian army's "fait accompli" (72). The discussions at the UN General Assembly did not center around on the right of self-determination but on the preservation of the territorial integrity of Pakistan(73).

2.3 Uti Possidetis and Other Regional Approaches

The principle of uti possidetis, according to which newly established states boundaries should follow, those that existed in colonial times, first emerged in Latin America in early nineteenth century as a consequence of the independence of the ex-Spanish colonies. This principle sought to avoid disputes among the successor states by protecting the status quo upon independence and sought to ensure that no territory in the continent was to be considered as "terra nullius" and thus potentially open for further colonization (74). The principle of uti possidetis has two distinct meanings. First, it prevents territorial claims between the states and secondly, it defines actions which will dismember the states as illegal (75).

The African continent has established the pattern in this regard during the decolonization period. After independence, they concluded that the threat to established governments from external invasion and domestic subversion was so great that the common goal of African unity could only be pursued within the frontiers inherited by the colonial powers(76). Decolonization process has left Africa with many divisions between the same tribes along the borders, Although the principle of self-determination was put forward in Africa, in its application, African states interpreted as the principle of "self-government" and denied the existence of self-determination for the different tribes which want to secede(77). In 1964, the OAU adopted the resolution of the "Intangibility of Frontiers" according to which the member states reaffirmed in Art.3, paragraph 3, and pledged themselves to respect the frontiers existing in their achievement of national independence(78). The ICJ justified the principle of uti possidetis in the frontier dispute case between Burkino Faso and Mali by declaring that "its obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power"(79).

The ICJ went on to state that, an apparent conflict existed between the principle of uti possidetis and self-determination, but that African states had however decided that the maintenance of the territorial status quo is the wisest policy In interpreting the principle of self determination the principle of uti-possidetis has always been taken into account"(80). But the important thing is that the ICJ considered it necessary to emphasize the general scope of the principle of uti possidetis declaring that it had become one of universal application(81).

An example for the interpretation of territorial integrity by the OAU is the secession of Biafra from Nigeria. In May 1967, the military governor of the Eastern Region announced the secession of this region from Nigeria and the formation of the republic of Biafra. In this case the UN remained aloof, encouraging the OAU in its mediatory efforts, but consistently supported the territorial integrity of Nigeria (82). The Fourth OAU Assembly Meeting in September 1967 discussed the case of Biafra and with AHG/Res. 51(IV). The OAU condemned secession in any member state and declared its support for the principle of territorial integrity, The principle of self-determination was considered to be inapplicable (83) and the war perceived to be an internal affair "(84) The OAU assumed a diplomatic role for the restoration of the territorial integrity of Nigeria, knowing that the secession of Biafra would set a dangerous precedent for the political unity of every African country(85). However, the OAU was unable to present a united front, four African states namely Gabon, the Ivory Coast, Tanzania and Zambia, which were motivated to a large extent by humanitarian motives, recognized Biafra (86).

The OAU adopted AHG/ 54 (v) on September 1968 and called upon Member States to refrain from any action detrimental to the peace, unity and territorial integrity of Nigeria and it also called upon the Biafrans to restore the peace and unity of Nigeria. In September 1969, the OAU with AHG/Res 58(v) again called for the unity of Nigeria as being in the overriding interest of Africa. The Biafran secessionist attempt ended without success and the territorial integrity of Nigeria was restored.

The European practice differs from other regional approaches by its views on territorial integrity. Under Art 1 of the Final Act of Helsinki, they consider that frontiers can be changed, in accordance with interna-

tional law by peaceful means and by agreement." The case of the unification of the Federal Republic of Germany with the German Democratic Republic the CSCE set a precedent for revising borders on the basis of nationality considerations under the Helsinki principles (87). And with the " Charter of Paris" the European states committed to refrain from the threat or use of force againsts the territorial integrity of any state (88).

2.4 Constitutional Law and Territorial Integrity

As in international law, constitutional law also operates in an adverse manner to secession (89) and gives utmost attention to the preservation of the territorial integrity of states. The constitutions of many states reaffirm the preservation of territorial integrity (90). For example, Art. 3 of the Turkish Constitution states that "the Turkish state is an indivisible whole with its territory and nation." This article is protected by Art.4 of the Constitution, according to which this article shall not be amended, nor shall its amendment be proposed (91).

Only three post 1945 federal constitutions provided a right to secession These are; Burma between 1947 and 1974, Yugoslavia and the Soviet Union(92). The practice of such constitutional rules did not come into consideration until the secessionist crisis of Yugoslavia and the disintegration of the Soviet Union. These constitutional provisions were not applied automatically and peacefully when there was actually a demand for their implementation .When demanded in the USSR by the Federal Baltic Republics, the Red Army crushed attempts ,and in the Yugoslav case the central government denied the application of such a right, hence civil war erupted. Although such rights were mentioned in the constitutions, when it came to interpretation the central governments tried to prevent the application of such a right and opted for territorial integrity.

III How to Reconcile the Two Principles

One of the limitations to the implementation of self-determination is the territorial integrity of states (93). Conceptually, self determination and secessionism are not opposite to each other. But , in practice, they have come to contradict each other when territorial integrity of states is concerned. The demand for self-determination during the decolonization process was regarded undesirable by the majority of the world community of states. The problem arose with the claim for self-determination by many groups for secessionist purposes which threatened the territorial integrity of states. It is clear that secession does not conform to the rules of international legitimacy, those fundamental legal and political principles that govern the present interstate system and membership in that system (94) .Moreover, the failure of international law to accomodate a right to secede stems from the fear that secession would mean international anarchy and that this may lead to attempts to dissociate endorsement of the right of self-determination from recognition to a right to secede (95).

In view of these recent developments ,it is obvious that the principle of territorial integrity must not serve as a shield for tyrants, dictators or totalitarian rulers, it must not become a screen behind which human deprivations are justified, condoned and perpetuated(96). Therefore a solution must be found to reconcile the dilemma between territorial integrity and self-determination.

In today's world, the decolonization process is over and the demand for self-determination of peoples has gained new dimensions. Cultural, economic and political discrimination against ethnic groups are the main causes of dissatisfaction. The colonial borders drawn by the empi-

res paid little attention to tribal, cultural and linguistic lines .These are the main reasons for the secessionist demands and threats against the territorial integrity of states.

During the decolonization period attention has mainly been given to the external aspect of self-determination. When the external aspect of self-determination has been recognized in territories other than the colonial territories and applied to todays world, that means that in the near future we will encounter thousands of ministates since majority of the states are ethnically heterogeneous. Therefore, the problem is how to satisfy the demands of these people without violating the territorial integrity of states. The application of the internal aspect of self-determination might be a solution to this problem. Through application of the internal aspect, these minority groups can influence the constitutional and political structure of the system under which they live . The internal aspect of self-determination involves of a people to overthrow their effective rulers and establish a new authorative government in the whole of an entity and claims of a group within an entity, to such protection as autonomy. By application of this democratic process these groups will take position in the governmental apparatus and seek solution for their problems. To the extent that the internal self-determination gives a clear answer to the problems of these dissatisfied groups' problems, it also resists secession as its solution and through this process territorial integrity of states and self-determination of peoples can be reconciled.

These democratic principles and protection of minority rights have to become a general norm which must be binding on every state and effective mechanisms must be established through the international organizations. If the majority of the world community of states have managed to establish such a worldwide norm then the external aspect of

self-determination might be used as a threat against nondemocratic governments which do not respect the democratic principles and minority rights. Through the application of internal self-determination justice can be enhanced in the world through self-government. When the world reaches such a global consensus, it is not only the minority groups, but the whole world will benefit from such a consensus, for at least peace will come.

PART TWO

A CASE STUDY : THE YUGOSLAV CRISIS

I Characteristics of Yugoslavia

1.1 History

The ethnic problem in Yugoslavia did not simply emerge after the end of Cold War . Its roots can be traced through history. Slavs settled in Yugoslavia during the sixth and seventh centuries. There were basically three slavic tribes: the Slovenes; the Croats and the Serbs. The Croatian and Slovene tribes were influenced by Latin and Germanic political orders and cultures and became Roman Catholic (1). To the east lived the Serbian tribes adjacent to the Byzantine world and were likewise influenced by the Eastern Orthodox Church and its culture (2).

Situated on the dividing line between the areas of Roman Catholic and Eastern Orthodox religious influence, Bosnia and Herzegovina suffered from constant internal turmoil from the tenth to the fifteenth centuries. This situation was complicated by the introduction of an heretical Christian cult - Bogomilism (3) during the twelfth century.

The fourteenth and fifteenth centuries was the time of the Ottoman conquest in the Balkans. In the fifteenth century, Ottomans defeated the Serbian Kingdom and then took control of Bosnia and Herzegovina. The Bogomils who suffered from Roman Catholic and Eastern Orthodox suppression voluntarily accepted the Islamic religion. Slovenia and Croatia remained tied to the Habsburg Empire. Three great Mediterranean religious traditions, Roman Catholicism, Eastern Orthodoxy, and Sunnite Islam, met head on in Yugoslavia. Croatia remained tied to Habsburgs and became the battleground of the Ottoman and the Habsburg empires. The Habsburgs invited the Orthodox Serbs, from territories under

Ottoman rule and settled them in the Eastern parts of Croatia , thus establishing the "Military Frontier Province" against the Ottoman Empire (4).

As part of their overall policy toward the conquered Christian peoples, the Ottomans transferred almost all civil an authority of the former Serbian state to the partriarchs of Pec(5). This was an aspect of the so-called millet system, whereby the non-Muslim subjects of the Porte were provided with autonomous self-government under their respective religious leaders (6). The non-Muslim millets were subject to their own native regulations and not to Islamic Law. It was largely due to the influence of the church that the consciousness of the Serbian state and national traditions survived (7). The Eastern Orthodox Serbs, Macedonians and Bosnian Muslims were under the rule of Ottoman Empire for much of the period between the fourteenth and nineteenth centuries.

By 1878, with the Treaty of Berlin, Serbia gained its independence. During the nineteenth century some Slovene, Croat, and Serb intellectuals began to advocate the creation of a united and independent South Slav (Yugoslav state). At the end of World War I the Western Allied Powers agreed to the concept of a Yugoslav Kingdom to be formed by uniting the South Slav territories of the defeated Austro-Hungarian Empire (the successor of the Habsburg Empire) with Serbia, Montenegro and northern Macedonia (8).

In 1941, the Yugoslav Kingdom was occupied by Italy and Germany and partitioned among themselves except for Croatia, which became an independent state with the inclusion of Bosnia and Herzegovina in its borders. Almost one third of the inhabitants were Serbs and from the beginning, the ustase (9) adopted an anti-Serb policy of massacres, expulsion, and forced conversion to Catholicism. Under the leadership of Josip Tito, the Partisans (10) waged war against the invading forces

and against groups within Yugoslavia that collaborated with the invading forces.

After the end of World War II, the Partisans took control of the country, abolished the monarchy and proclaimed the Federal People's Republic of Yugoslavia. The Constitution of 1946 established six constituent republics corresponding to traditional divisions of the area without regard to the ethnic composition of those republics (11) and many minorities were left trapped in those republics like the Serbian minority in Croatia and Macedonia.

1.2 Constitutional and Governmental Characteristics

The 1974 Constitution of Yugoslavia created a federation of six republics, namely: Slovenia, Croatia, Macedonia, Bosnia-Herzegovina, Montenegro and Serbia, and two autonomous regions, Kosova and Vojvodina (12). The Constitution defines the Socialist Federal Republic of Yugoslavia (SFRY) as a federal state, a union of voluntarily united nations and their socialist republics, as well as the socialist autonomous provinces of Vojvodina and Kosovo, which are parts of the Socialist Republic of Serbia (13). The Constitution's framers bowed to Serbian sensibilities by allowing Serbia to retain ultimate sovereignty over these two provinces (14). The six federal republics were given the right to self-determination and only the nations, Slovenes, Croats, Serbs, Montenegrins, Macedonians and Muslims held such rights (15) in the sense that territorial revision was made possible with the consent of all six republics and the autonomous provinces. Hence, change could come about by way of partition only, not through secession (16).

The autonomous regions which are members of nations whose native countries border on Yugoslavia, (namely the Hungarians and Albanians)and members of other nations living permanently in Yugoslavia were not given the right of self-determination and secession.

The 1974 Constitution also created a governmental mechanism. According to this, a collective federal presidency was established. It was composed of representatives from each of the republics, the minister of defence (who did not have voting rights) and Tito, who was designated "President for Life" (17). A constitutional provision addressed the problem of Tito's succession by creating a system in which the title of president would pass annually in a pre-set sequence from one member of the collective body to the next (18). After the death of Tito in May 1980, the eight-member presidency of the republic under an annually rotating president became head of State; president of Federal Executive Council is premier and de facto head of government (19).

1.3 Ethnic Composition

Socialist Yugoslavia was a multinational state in which the country's federal status was defined along ethnic lines. There were six major nations which were divided within the federal borders. These national groups were Serbs 36.3%, Croats 19.8%, Muslims 8.9%, Slovenians 7.8%, Macedonians 6.0% and Montenegrins 2.6% (20). Minorities, namely Hungarians 2% and Albanians 7% of the population were assigned their autonomous republics (until 1988-90). But the problem arose with the fact that this ethnic distribution did not correspond with republican boundaries (21).

-In Croatia, Croats comprise 75%, Serbs 12% and other national groups comprise 13% of the population,

-in Bosnia-Herzegovina Muslims comprise 40%, Serbs 33%, Croats 18% and other nations 9%,

-in Slovenia, Slovenes make up 90%, Croats 3%, Serbs 2% and other nations 5%,

-in Montenegro, Montenegrins 68%, Muslims 13%, Albanians 6%, Serbs 3% and other nations 10%,

-in Macedonia, Macedonians, 67%, Albanians 20%, Serbians 2% and other national groups 11%,

-in Serbia, Serbs 65%, Albanians 20%, Croats 2% and other nations comprise 13% of the population (22),

-in the autonomous republics of Kosovo, Albanians 90% and other nations 10% and in Vojvodina Serbs 56%, Hungarians 21% and other nations 23% (23).

II The Crisis

2.1 Space Internal Developments

Under Tito's charismatic leadership and the hard norms of the Cold War years Yugoslavia survived and existed until the end of the 1980s (24). The first blow against the existence of Yugoslavia came with Tito's death but the Cold War norms prevented the disintegration of the Yugoslav Federation and Yugoslavia managed to survive until the end of the Cold War.

Five sets of developments prepared the ground for the disintegration of Yugoslavia between 1989 and 1991: The amendment of republican constitutions without federal approval; the ending of Communist Party rule and holding of democratic elections; the inclusion of republican presidents in constitutional talks and the subsequent collapse of these talks.

The first seeds of disintegration of Yugoslavia were seen in 1987, when Slobodan Milosevic came to power in Serbia with the promise to unite Serbia again by ending autonomy for the autonomous provinces of Kosovo and Vojvodina (25). Between Autumn 1988 and March 1990, Kosovo and Vojvodina lost their autonomy completely.

In September 1989, Slovenia adopted a series of constitutional amendments which asserted republican sovereignty over the federal one. The other republics, following the Slovenian example, made similar constitutional amendments (26). Following the constitutional crisis, talks between the six republics on Yugoslavia's future constitutional structure started. The constitutional discussions that followed revolved around two concepts for the future of Yugoslavia: federalism and confederalism. A new federation was proposed by Serbia and its proposals were designed to optimize central control (27), where as confederation was propounded by Slovenia and Croatia. They wanted Yugoslavia to become a loose association of independent and sovereign states similar to the European Community (28).

The other important point was that in these six federal republics national elections were held and in these multi-party elections non-communist authorities had assumed power and the republics ceased to be socialist republics in 1989 and 1990. The holding of multi-party elections resulted in victories for the communists with nationalist programmes in Serbia and Montenegro, and for centre-right parties with nationalist programmes in the other republics (29). The results of these elections were felt during the talks to reach agreements on the framework for federal elections and in the end these could not be held.

The governmental crisis gained momentum in 1991. The Macedonian Assembly, on January 25, unanimously adopted a declaration of the republic's sovereignty which entitled the Macedonian people to self-determination, including the right to secede from Yugoslavia (30). Against these declarations, President Slobodan Milosevic of Serbia, on February 8, stated a warning that if Yugoslavia ceased to be a federation, Serbia would seek to incorporate all Yugoslav areas where ethnic Serbs were predominant (31). Despite these threats, on February 20, 1991, the Slovene assembly adopted a resolution on the "disassociation of Slovenia from Yugoslavia" which reinstated all sovereign rights previously transferred by Slovenia to Yugoslavia, under Slovene control (32). This was followed by the Croatian Assembly resolution on February 21 asserting the primacy of Croatia's constitution and laws over those of the federation and the procedure for Yugoslavia's dissolution into sovereign states (33). The first reaction from the minorities living in the federal republics came from Serbs living in Croatia. The Serbs who in late 1990 declared the "Serbian Autonomous Region of Krajina" foresaw the region's separation from Croatia on February 28, and adopted a resolution declaring that Krajina wished to unite with Serbia and Montenegro and the Serbian population of Bosnia-Herzegovina (34).

Until April 1991, the Federal Presidency had the principal role in negotiating Yugoslavia's future. But, with the newly elected representatives of these republics, the presidents of Yugoslavia's six constituent republics took over this role from the federal presidency, and on April 11, they produced an agreement to hold a referendum on the future of the country. Ideas for that structure had crystallized into two models:

(i) a community of independent and sovereign states, as advocated by Slovenia and Croatia,

(ii) a united federal state, as advocated by Serbia and Montenegro, in which republics continued to delegate some sovereign rights to a central government (35).

It was decided at the Brdo Krajina meeting to hold a separate referendum by the end of May in each republic except Slovenia, which had already voted overwhelmingly for independence in a referendum in December 1990 (36).

The Presidency called for an emergency session on May 8-9 at the request of the army (37). In its statement finally agreed early on May 9, the Collective State Presidency decided to set up a commission including Croatian representatives as well as "legitimate representatives" of Serbs from Croatia to investigate the causes of the crisis including "the right of a nation to self-determination including secession" (38).

A referendum held on May 19 throughout Croatia, which the Serbs boycotted, showed that 93.2 percent of those voted in favour of the proposal that Croatia "as a sovereign and independent country which guarantees cultural autonomy and all civil rights to the Serbs and members of other nationalities in Croatia, may with other republics join a confederation of sovereign states" (39) and the Slovenian government announced on May 8 that it would secede by June 26th (40).

On June 1, Yugoslav Prime Minister Ante Markovic condemned as illegal the moves by Croatia and Slovenia to secede (41). The leaders of Yugoslavia's six constituent republics met in Zagreb on June 6 and agreed to consider a compromise plan to transform the country into a loose alliance of sovereign states, based on a proposal put forward by the presidents of the republics of Bosnia-Herzegovina and Macedonia (42).

The Presidents of Yugoslavia's six republics on June 6 agreed to consider as a basis for future negotiations a proposal to turn the country into a loose confederation of states (43). A joint statement of presidents read in part, "insisting on Yugoslavia's legally remaining a federal state could lead to its definitive breakup. We can preserve only by transforming it into an alliance of Yugoslav republics" (44).

On June 24, Prime Minister of Yugoslavia, Ante Markovic, visited Zagreb and addressed the Croatian Assembly. He warned that the federal government would use "every legal measure" to prevent the break-up of Yugoslavia. Following this at an emergency session on June 25, the federal parliament in Belgrade called on JNA (Yugoslav National Army) to intervene to "protect Yugoslavia's borders" (45). Following this declaration, clashes between JNA and the Slovene forces started.

An FEC (Federal Executive Council) meeting on June 27, called for a three month moratorium on the implementation of all decisions concerning secession, dissociation and the changing of international borders between republics (46). Croatia and Slovenia proceeded during October with steps to dissociate themselves from federal Yugoslav arrangements, refusing to extend beyond October 7, the three month moratorium on implementing their independence declarations, to which both had agreed at the Brioni talks in July (47). Croat and Slovene representatives resigned throughout September and October from the federal bodies (48). The parliament of Bosnia-Herzegovina declared the republic's sovereignty on October 15 (49). Serbian ethnic deputies walked out of the session, and on October 24 Formed the "Assembly of the Serbian Nation of Bosnia-Herzegovina" fixing a plebiscite on remaining in Yugoslavia (50).

Despite insistence by Serbia that its actions were illegal, the Kosovo Assembly (dissolved by Serbian government in July 1990) organized a referendum on September 26-30 on sovereignty for the 92 percent Albanian speaking and mostly Muslim province of Kosovo, and proceeded on October 19, to elect a provisional coalition government which was recognized on October 22 only by Albania (51).

Serbia on November 5, rejected an EC peace proposal that had been tentatively accepted by Yugoslavia's five other republics. The proposal, presented in October at an EC peace conference in The Hague, called for Yugoslavia to be transformed into a loose confederation of independent republics with the traditional internal borders left unchanged (52). Each republic would guarantee the civil rights of its ethnic minorities (53).

On December 4, the Assembly of Croatia unanimously approved a law on minorities, committing Croatia to accept all international convention on human rights and granting cultural autonomy to ethnic communities within Croatia, once there was peace in the republic within its 1974 borders (54). But the Serbs living in Croatia were not satisfied with this and proceeded towards independence. Two Serb enclaves in Croatia, the Serbian Autonomous Region of Krajina and Autonomous Region of Slavonia, Baranja and Western Srem, proclaimed themselves the Serbian Republic of Krajina on December 19 (55). The two enclaves did not share a common border, but together occupied about a third of Croatian territory and included 300,000 people (56). The new republic was recognized by Serbia the following day (57).

Serbia and Montenegro agreed on February 12 in Titograd to retain "the principles of a common state which would be the continuation

of Yugoslavia" (58). It would retain the Yugoslav flag and anthem and a joint parliament and government, cooperate in foreign policy and defence and form an economic union (59). Nevertheless, Montenegro decided to hold a referendum on its future on March 1 (60). Serbs living in Bosnia-Herzegovina followed the Croatian example, Serbian leaders, on March 27, proclaimed the "Serbian republic of Bosnia-Herzegovina", declaring its loyalty to the "all-Serb state of Yugoslavia" (61). On the other hand, Montenegrins voted in favor of the republic, remaining part of Yugoslavia (62).

In the end, four federal structures broke away from Yugoslavia, while Montenegro and Serbia decided to continue as Yugoslavia. The internal crisis developed around the problem of minorities. Serbian minorities living in Bosnia-Herzegovina and Croatia demanded their secession from already seceding entities. The seceding entities of Croatia and Bosnia-Herzegovina have born with their secessionist cases. From the start they granted special minority rights to the Serbian minorities but these grants have collided with the demands of the Serbian minorities' demand to remain part of Serbia. When their grants clashed with the demands of Serbian minority and Federal Army got involved in the crisis on the side of the Serbs, the civil war erupted. In this crisis, the ambition of the Serbs for a "Greater Serbia" together with the historical enmities and cultural differences between the various ethnic groups have played a prominent role.

2.2 Dealing with the Crisis

A number of international organisations have dealt with the crisis in Yugoslavia. Among these international organizations, we can mention the CSCE (Conference on Security and Cooperation in Europe), the European Community, the UN and certain individual states (63).

2.2.1 Conference on Security and Cooperation in Europe

In late June 1991, Austria became alarmed by developments in its southern neighbor and implemented the related procedure through the offices of the Center for the Prevention of Conflict, an organ of the CSCE which allows a member government to request information on "unusual military activities" in another state (64) and on grounds that European security was threatened (65). Upon the request of Austria, the CSCE emergency mechanism at the session of the Council of Foreign Ministers in Berlin in June 1991, "expressed friendly concern and support for the democratic development, unity and territorial integrity of Yugoslavia (66). The statement also declared that the member governments support the continuation of dialogue among all parties involved in the conflict and that the existing constitutional disputes should be remedied away out of the present difficult impasse should be found without recourse to the use of force and in conformity with legal and constitutional procedures" (67). At the beginning of July 1991, the CSCE Committee of Senior Officials adopted a resolution. The text backed the EC mediatory efforts, requested that all military forces subordinate themselves to political authority and urged Croatia and Slovenia to suspend their declarations of independence for three months (68).

The CSCE Committee of Senior officials held a third emergency meeting on the Yugoslav crisis in early September. The member governments issued a statement in which they declared that "no territorial gains or changes within Yugoslavia brought about by violence are acceptable" (69). But the CSCE never got into the game of Yugoslavia because of its limitations that, it is too inclusive and it operates on the basis of

unanimity (70). The federal government of Yugoslavia which was represented at those meetings always blocked the CSCE mechanism and the Soviet Union also resisted CSCE intervention in Yugoslavia (71), because the USSR was trying to prevent its own disintegration. The most the CSCE could do in this case was to pass a mandate to the European Community (72).

2.2.2 The United Nations

Initially the UN approach to the crisis had been based on preserving the territorial integrity of Yugoslavia. The first reaction of the UN organization was to impose an arms embargo and express its full support for the efforts of the European Community and CSCE mechanism and declared that no territorial gains or changes within Yugoslavia brought about by violence are acceptable (73). The SC Res. 713 of 25 September 1991 also called on "all States to refrain from any action which might contribute to increasing tension and impeding or delaying a peaceful and negotiated outcome to the conflict in Yugoslavia, which would permit all Yugoslavs to decide upon and to construct their future in peace", which accepted self-determination of federal entities in Yugoslavia. During the discussions at the Security Council, there was not a clear cut consensus among the members. While the Minister of Foreign Affairs of the Soviet Union, Boris Pankin and the U.S. Secretary of State James A. Baker called for negotiation and dialogue between the parties in Yugoslavia only two states had taken a clear stand towards the crisis during the debates the Security Council. But during the debates there were two opposite views. While Austrian Federal Minister of Foreign Affairs, called for the recognition of the right to self-determination in conformity with the full aspirations of the peoples of Yugoslavia, the Chinese Minister of Foreign Affairs Qian Qichen said that the internal problems of sta-

tes should be resolved by their governments and that the UN should in no way interfere or intervene , but it supported the draft, based on explicit assurance given by Yugoslavia that they would identify common interests in a new integration (74). As can be seen from the discussions only Austria supported the principle of self-determination and other states called for negotiations between the parties and favoured the continuation of Yugoslavia as a single entity. The initiative to solve the crisis was given to European Community.

As the crisis intensified the EC got into the process of recognition of the seceding entities in Yugoslavia. The UN Security Council through Res. 724 dated 15 December 1991 declared that it "strongly urges all States and parties to refrain from any action which might contribute to increasing tension, to inhibiting the establishment of an effective cease-fire and to impeding or delaying a peaceful and negotiated outcome to the conflict in Yugoslavia." Through this resolution, the UN Security Council indirectly warned the EC against recognition of Croatia and Slovenia.

The UN involvement in the crisis was not limited with the discussions. The Security Council gave the duty to the Secretary General of the UN to examine and take appropriate action for the possible establishment of a United Nations peace-keeping operation in Yugoslavia (75) and the process of the deployment of any United Nations peace-keeping operation in Yugoslavia was seen as an apparatus to enable all parties to settle their disputes peacefully (76). Upon this, the UN prepared a peace-keeping plan and submitted it to the fighting parties and decided to establish a United Nations Protection Force (UNPROFOR) in accordance with the peace plan but reaffirmed the parties that the plan and its implementation is in no way intended to prejudge the terms of a political settlement (77). The UNPROFOR has been deployed along the fighting

areas in Croatia between the Serbs and Croats.

As the fighting began in Bosnia-Herzegovina following consultations among members of the Security Council, the President of the Council made the statement that "the Council demands that all forms of interference from outside Bosnia-Herzegovina cease immediately. In this respect, it specifically calls upon Bosnia-Herzegovina's neighbours to exercise all their influence to end such interference" (78). This was a clear warning against Serbia and Croatia; and it decided the deployment of UNPROFOR in Bosnia-Herzegovina. Upon this decision, the UN Security Council declared that any change of borders by force is not acceptable and respect should be shown to the territorial integrity of Bosnia Herzegovina (79).

With the admission of Croatia, Slovenia and Bosnia-Herzegovina, to the UN, the disintegration process has gained a new dimension (80). For the first time the Federal Republic of Yugoslavia was equated with Serbia and Montenegro and the claim by Serbia and Montenegro to continue automatically as member of the former Socialist Federal Republic of Yugoslavia has not been generally accepted and was imposed an embargo upon Serbia and Montenegro (Federal Republic of Yugoslavia) (81). But this decision was not taken unanimously, China and Zimbabwe abstained. Through Res.777 of 19 Sept. 1992 the Security Council decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership of the United Nations that it shall not participate in the work of the General Assembly. Again China, Zimbabwe and India abstained. Through this period the UN actively initiated humanitarian relief operations in Bosnia-Herzegovina but failed to take effective measures for the prevention of hostilities between the fighting parties.

Initially the UN position in the crisis was shaped around finding a negotiated settlement to the crisis and, in a way, the continuation of the Yugoslav state without any secession. But as the crisis was intensified and the EC got into the recognition process, the UN could not do anything to prevent this. Then, as can be seen in the resolutions of the Security Council, the UN adopted its policies through the process for the deployment of peace-keeping forces and calling for the respect of the seceding countries territorial integrity. Members of the Third World such as China and India remained stood aloof towards the secessionist process and Zimbabwe also reflecting the African approach in the Security Council abstained in recognizing the secession of Yugoslavia.

2.2.3 European Community

After the failure of the CSCE procedures to find a just solution to the Yugoslav crisis, the EC has taken the lead. The EC reluctantly wanted to see Yugoslavia's break up and it adopted its policy of continuation of a single state. The EC actively sought a solution, first through the mediation efforts of the EC foreign minister "troikas" (the foreign ministers of Luxembourg, Italy and Netherlands) and then through the conference on Yugoslavia set up under former NATO Secretary-General Lord Carrington, following agreement between the parties to the dispute in August (82).

But the views of the EC member states were not based on the continuation of a single state. Some members of the EC, notably Germany, from the start threatened to recognize the break-up Yugoslav republics. Germany argued for supporting the sovereignty of Slovenia and Croatia with which it had both economic and historical ties (83). In contrast, France, with its own traditional connections with Serbia, held to the

primacy of sustaining the same Yugoslav federation (84). Despite these disparities concerning the views of the member states, initial reaction to the Yugoslav crisis organized around the continuation of a single state.

European Community officials first reaction to the crisis was that, continuing aid would be conditional upon the country resolving ethnic conflicts and furthering economic and political reform and that future close relations would depend on the country remaining united (85). In the two days of talks in Belgrade on May 30-31, during which Jacques Delors, President of the EC Commission, met with the presidents of the republics, confirmed that the EC was ready to help a democratized and reformed Yugoslavia, with unchanged internal and external borders (86). This was a hard position to reconcile with that of Germany.

European Community ministers expressed their feelings on Yugoslavia in the Political Cooperation declaration, and on July 5 in the Hague EC Foreign ministers pointed out that "it is only for the peoples of Yugoslavia themselves to decide on the country's future" and "the community and its member States call for a dialogue without preconditions for all the parties on the future of Yugoslavia, which should be based on the principles enshrined in the Helsinki Final Act and the Paris Charter for a New Europe, in particular respect for human rights, including rights of minorities and the right of peoples to self-determination in conformity with the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States" (87).

The rights of self-determination and the territorial integrity were seen by the EC Member States to be in conflict with each other insofar as the Slovenian and Croatian moves were the result of unilateral declarations (88) because the EC was favoring a negotiated settlement to

the crisis between the parties.

At the same time, the EC mediation efforts continued between the Yugoslav republics under the chairmanship of Lord Carrington without any result. The European Parliament took a different approach towards the crisis in Yugoslavia. It adopted a resolution concerning Yugoslavia on 13 March 1991, taking totally different approach by declaring that "the constituent republics and autonomous provinces of Yugoslavia must have a right freely to determine their own future in a peaceful and democratic manner and on the basis of recognized international and internal borders" (89).

After the clashes began between Croatian and the Serbian forces, ministers declared that, a new situation existed in Yugoslavia on September, 1991 and stated:

- The unacceptability of use of force,
- the unacceptability of any change of borders by force which they are determined not to use,
- respect for the rights of all who live in Yugoslavia, including minorities,
- the need to take into account of all legitimate concerns and aspirations (90).

The original EC plans envisioned the country as a loose federation in a currency union, without border changes and with international peacekeepers overseeing the demilitarization of disputed areas inhabited by minorities (91). The proposal, presented in October at an EC peace conference in The Hague, called for Yugoslavia to be transformed into a loose confederation of independent republics, with the traditional internal

borders left unchanged. Each republic would guarantee the civil rights of its ethnic minorities (92). But as the efforts started to fail and a solution could not be found, pressure within the EC, exerted by Germany, for the recognition of the breakaway republics intensified. In early November, the Conference broke down after Serbia rejected a settlement plan put forward by Carrington (93). There followed a debate within the EC over the recognition of the breakaway Yugoslav republics (94).

Upon the proposal made by France, Judge Badinter was given the task to prepare a report on the guidelines for the recognition of breakaway republics. On 16 December 1991, this plan was approved and declared as the "Declaration on the Guidelines on Recognition of New States in Eastern Europe and the Soviet Union".

The EC indicates that they adopt a common position on the process of recognition of these new states, which require:

- Respect for the provisions of the Charter of the United Nations and the commitments subscribed to in the Final Act of Helsinki and the Charter of Paris, specially with regard to the rule of law, democracy and human rights;
- guarantees for the rights of the ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE, respect for the inviolability of all frontiers which can only be changed by peaceful means by common agreement;
- acceptance of all relevant commitments with regard to disarmament and nuclear non-proliferation as well as to security and regional stability;
- commitment to settle by agreement, including where appropriate by recourse to arbitration, all questions concerning state succession and regional disputes.

The Community and its member states will not recognize entities which are the result of aggression they would take into account of the effect or recognition on neighbouring states (95).

As the EC set its conditions for the recognition of breakaway republics, it continued its efforts to find a political solution at least as a "confederation of sovereign states". But upon the failure to find a solution, they invited the break away republics to apply for recognition by 23 December 1991, on condition that :

- They wish to be recognized as independent states,
- they accept the commitments mentioned before,
- they accept the provisions laid down in the draft Convention especially those in Chapter II as human rights of national or ethnic groups, under consideration by the conference on Yugoslavia (96).

.....

The Community and its member states also require all former Yugoslav republics seeking independence to commit themselves, prior to recognition, to adopt constitutional and political guarantees ensuring that they have no territorial claim towards a neighbouring community. It stated that it conduct no hostile propaganda activities against a neighbouring community state, including the use of a denomination which implies territorial claims (97). It would have recognized those states which met the requirements by 15 January 1992 (98) but Germany made the first move and recognized Slovenia and Croatia on 19 December 1991 (99).

Upon the application for recognition made by Slovenia, Macedonia, Croatia and Bosnia-Herzegovina, the Badinter Commission (100) wor-

ked out on the applications for recognition and declared that:

- General international law required that states protect national minorities within their territories ,
- while considering that there were some uncertainties about the law of self-determination, said that it was well-established that the implementation of self-determination did not involve modification of boundaries, except with the agreements of the states concerned. The Serbs in Bosnia and Croatia were not entitled to self-determination but rather to protection as national minorities within those areas, including to choosing their own nationality,
- the external frontiers of Yugoslavia had to be respected. In addition the internal demarcations between Croatia and Serbia and Bosnia and Serbia had to be respected in the absence of agreement to change them (101).

Upon these discussions Badinter Commission advised:

- That Slovenia and Macedonia satisfied the Foreign Ministers criteria,
- that there were doubts about the constitutional protection for minorities in Croatia but that Croatia had promised speedy amendments which would repair the deficiency,
- that there was not clear evidence that the people of Bosnia wished to proceed to independence. The EC would consider recognizing Bosnia and Herzegovina only after a referendum on Bosnian independence had been held (102).

With the decision of the Badinter Commission, in a legal sense di-

sintegration in Yugoslavia ended, although the recognition process and the clashes between the nationalities in Yugoslavia have been continuing, the secessionist process has been settled at least in its legal terminology.

2.2.4 Individual State Approach

During the Yugoslav crisis, Germany was the major state in Europe which was most clearly in favour of the right of self-determination. The German Foreign Minister Hans-Dietrich Genscher expressed that "the people of Yugoslavia alone may decide upon their future" (103) and threatened that "If a violent attempt is being made to change the internal borders of Yugoslavia, we have to consider recognizing Slovenia and Croatia's independence with a view to protecting these borders" (104). Germany was clearly in favor of the right of self-determination of the Yugoslav people but Germany had to depend on the "common foreign policy" approach of the European Community. Despite this, Germany could not wait and recognized the breakaway republics before the deadline set by the European Community.

Italy was also the supporter of the right of self-determination for the former Yugoslav peoples. Although its position was less clear, President Francesco Cossiga stated that "Slovenia and Croatia could not be sacrificed for the sake of a united Yugoslavia" (105) which was a clear statement in favour of self determination. However, Foreign Minister Gianni de Michelis made it clear that Italy's position was bound to that of the EC (106), which showed that the government's sympathy for Yugoslavia's break away republics had limits.

Many European countries expressed their concern about the disintegration of the Yugoslav Federation. With the old order collapsing,

most Western European leaders quickly agreed that the status quo should be maintained as far as possible (107) and the Western governments, notably Spain, France and the United Kingdom, seemed to fear, that recognizing breakaway Yugoslav republics would encourage a secessionist movement within their own borders (108). Yet Western Europe was interested in the symbol rather than reality of Yugoslavia and offered confederation or association plans. This criticism of the break away Yugoslav republics occasionally went to ridiculous degree, one example being when tiny Luxembourg warned Slovenia and Croatia on behalf of the EC that they were too small to be viable independent countries (109).

During the crisis, permanent members of the United Nations Security Council, expressed their opposition to the disintegration of Yugoslavia: the US reaffirmed its policy of withholding recognition, pending on a peaceful and negotiated settlement, Russia, with its strong historical, cultural and economic ties to Serbia, said that it was too soon to extend recognition; and China, which has its own secessionist movements in Tibet and elsewhere, took a similar position to that of Russia (110). The US Secretary of State, James Baker said that the US would not recognize Slovenia or Croatia as independent states, but spoke in favourable terms of the idea of Yugoslavia, becoming a loose alliance of states, and warned of the tragic consequences of the Yugoslav instability (111).

Even during the crisis the pre-coup Soviet government came close to threatening war if other countries, for any reason, decided to intervene in Yugoslavia. A Soviet statement in early August 1991 referred to European considerations of peacekeeping forces in Croatia and warned that "to enter on one side of the conflict would mean to come into conflict automatically with others inside and outside Yugoslavia" (112).

France stressed that recognition for the republics is not enough to resolve the crisis, for an agreement also has to be reached on borders (113).

As can be seen from these, the countries which were against the disintegration of Yugoslavia, can be divided into two main groups. The first group of countries like China were the ones which to any reason whatsoever would not recognize the disintegration of Yugoslavia. The other group of countries such as the United Kingdom and France, while not recognizing the disintegration of Yugoslavia, were the countries which were favouring a negotiated settlement for the crisis, namely confederation of Yugoslavia. In fact, by favouring confederation, they were favouring a solution that was not secesion but more like similar to partition.

Turkey, both as a Balkan country and respecting its Ottoman heritage, from the beginning of the crisis actively participated in the discussions. Since the beginning of the crisis, Turkey stood aloof towards the secessionist entities, bearing in mind its own separatist Kurdish problem, and supported the existence of Yugoslavia. The old federal structure was also seen as serving the interests of Yugoslav Muslims. In this context, Turkey did not refrain from criticizing the decision of Germany to recognize the republics of Slovenia and Croatia and stated that this would only speed up the process of disintegration in Yugoslavia.

But as the policy of the EC has become clear that it would recognize Croatia and Slovenia upon the advisory opinion of the Badinter commission, Turkey declared that it would recognize all the republics at about the same time but the recognition of Macedonia came a little bit later.

As the crisis intensified and it became clear that Yugoslavia would not exist as one legal entity, the policy of those states that were against the disintegration of Yugoslavia has changed towards the protection of the breakaway republic's territorial integrity. The foreign policy approach of the US has begun to change since January 1992. In a statement issued after talks between the US Deputy Secretary of State Lawrence Eagleburger and Yugoslav State Presidency member Borisav Jovic, Eagleburger stated that the "corrupt Yugoslav Presidency" cannot represent the interests of the whole country and continued by expressing that the US will not accept any outcome of the Yugoslav crisis that would be based on the use of force and intimidation to change the borders of Yugoslav republics (114).

After the failure of the coup d'etat in the Soviet Union, the country started to disintegrate, there was no longer a Soviet Union as existed before, and the biggest successor of the Soviet Union, namely the Russian Federation has changed its policy towards the crisis and in February 1992 announced its intention of recognizing the breakaway republics. When Yuri Deryabin, the special envoy of Boris Yeltsin, was asked, if haste to recognize the breakaway republics was appropriate in the light of the process of disintegration in Russia itself, he answered "there is no direct link here" but added that "this decision does not influence Russia's stand point concerning the continuity and international status of Yugoslavia as a subject" (115). As can be seen from these examples, the approach of states to the crisis mainly depended on the problems they face. Ethnicity and national interests of those countries, together with historical ties were the major determinants of their approach.

Claims for self-determination in the former Yugoslav federation can be divided into two distinct categories: The first involves a nation's

claim to secede from the existing state such as Slovenes, Croats and create a new independent state as a juridical person under international law. In the second category, claims for self-determination which has been expressed by the national minorities living in the former Yugoslav republics, such as the Serbs in Croatia and Albanians living in Serbia (Kosovo region) ,were not accepted by the EC and Western governments having the right to create new nation states. But the first category of claims were accepted.

During the crisis, the attitude of the Western countries towards the right of self-determination of the people of Yugoslavia was not very clear. At a deeper level, the debates reflected an unresolved dispute between two conceptions," democracy and nationalism" (116). American, British and French leaders seem to want an international order based on citizenship above nationality, while German and Italian leaders apparently favour a revival of national self-determination, in which democracy is based on cultural identity (117). Germany, moreover was the only Western democracy that had recent first hand experience in realizing the principle of self-determination, owing to its unification in 1990 (118). It was public opinion that had moved the German government to act in defence of self-determination of neighboring peoples (119). In the Yugoslav case, the countries that raised objections to the disintegration of Yugoslavia finally recognized the secessionist republics but it was the fear of a sustained civil war, not a commitment to the principle of self-determination that pushed them into recognizing Slovenia and Croatia (120). The Western governments finally accepted the secessionist republics as entities having the right to self-determination which is recognized for the breakaway republics under certain conditions:

- Territorial integrity of the breakaway republics must be based

on previous federal borders,

- the right to self-determination was denied to the minorities living within those federal borders, including the autonomous republics, namely Vojvodina and Kosovo,

- before breaking away as a separate entity rights must be granted to minorities,

- if there is going to be a change on the borders of those republics, this must be based on a negotiated settlement.

But the Western European approach to the problem of Macedonia under Greek pressure represented a contradiction. Macedonia which satisfied all the conditions that the EC had put forward, was not recognized by the EC countries because of the objection of Greece to its name.

CONCLUSION

It was not until the birth of democracy in its modern form and the birth of nationalism in the nineteenth century that the principle of self-determination came into existence. Although Wilson and Lenin championed the idea of self-determination at the beginning of twentieth century, their ideas were mainly based on their own political ideologies. The League of Nations saw the principle of self-determination under the context of settlement of disputes caused by World War I and this idea never spread to the colonial territories.

The concept of self-determination gained momentum with the establishment of the United Nations Organization and the decolonization process by the second half of the twentieth century. But the conflict upon the concept of self-determination has begun to arise with the demand of the peoples living outside the colonized territories. The developed self-determination regime in the UN granted such rights only to the peoples of non-self-governing and colonized territories. Through various UN General Assembly resolutions this approach has been reiterated. The debate whether self-determination is a right in law or simply a political principle has not yet been solved. Conceptually, self-determination and secession are not opposite to each other. But, in practice, they have come to contradict each other. The secessionist cases of Katanga, and Bangladesh show that the international community of states has not yet been able to develop a criteria towards this concept. Instead, each regional and cultural group developed its own criteria such as the *uti possidetis* of African, Muslim support toward secession when it represented Muslim minorities in non-Muslim countries, and more liberal approach from Western Europe towards the minority rights. Each region and cultural group developed its own policy depending on the problems they face.

Utmost attention has been given to the protection of territorial integrity in the League of Nations and its successor of the states because it was necessary to establish an international order. In the League of Nations and its successor, the UN organization, attention has been given to the protection of territorial integrity of states. The UN G.A. Resolutions which dealt with the decolonization process have also dealt with the protection of territorial integrity of states and established a clear division between self-determination of colonies and territorial integrity of states by declaring that self-determination cannot be used for violating the territorial integrity of states. As in the case of Katanga, the UN organization used force to restore the territorial integrity of Congo, and in the case of Bangladesh there were discussions in the UN for protection of the territorial integrity of Pakistan as a whole but not for self-determination of the people of Bangladesh.

Other than the UN organization some territorial arrangements have also been made as the principle of *uti possidetis* in Africa. This principle has been interpreted as applicable worldwide by the ICJ in the Burkina Faso/Mali frontier dispute case. As well as international law and constitutional law also operated against secessionist attempts and used for the protection of territorial integrity of states.

The enmities which existed between the peoples living in Yugoslavia were held under, for a while, with the establishment of a new federal Yugoslav state under the leadership of Tito. The 1974 Constitution recognized the right of self-determination for the peoples of six federal republics but failed to recognize this right for Albanians living in the Kosovo region who were more populous than Slovenians and Macedonians who had the right to self-determination. The Kosovo region was given the status of autonomous republic together with the Hungarians living in Vojvodina. The federal constitution did not take into consideration the eth-

nic divisions and many ethnic groups trapped in other federal republics,

With the death of Josip Broz Tito and the ending of the cold war era the delicate balance in Yugoslavia terminated .During the crisis, some ways were sought for the continuation of the Yugoslav state as a whole, but the decision of Slovene and Croat federal authorities continued in line with secession. As the central authorities attempt to find a negotiated settlement to the crisis failed, the JNA intervened to prevent the secession and the civil war broke out. When it become clear that secession was going to occur according to the federal borders, the Serbian minorities living in Croatia and Bosnia-Herzegovina wanted union with Serbia and they declared their own republics with the help of JNA. Secessions in Yugoslavia were born with their own secessionist cases. The crisis has not ended but the four former republics of Yugoslavia, namely Croatia, Slovenia, Macedonia and Bosnia-Herzegovina have decided to create their own independent states. Serbia and Montenegro have decided to continue as part of the Yugoslav republic.

The UN and the EC played an important role during the crisis. The initial policy of the UN was based on the preservation of the territorial integrity of Yugoslavia because some of its members, like China, feared that this would be a precedent for their secessionist movements. The problem in Yugoslavia was seen as a regional one and the initiative to solve the crisis was given to the European Community .The EC tried to prevent the disintegration of Yugoslavia but failed to form a common policy between its members towards the crisis and fell hostage to the policy of Germany which recognized Croatia and Slovenia with fait accompli. After the disintegration, the role of the UN was limited with providing peace keeping forces and organizing humanitarian aid in Bosnia-Herzegovina and Croatia. On paper, the EC and the UN called for respect

for the territorial integrity of Bosnia-Herzegovina and Croatia but when it came to practice they failed to take effective measures for the protection of the territorial integrity of these states.

The Yugoslav crisis has three main implications for international law. First of all the African context of the principle of *uti possidetis* was applied to a case outside the African peninsula for the first time. We have mentioned before that it has been applied in the Burkino Faso/Mali case and declared by the ICJ that it had become one of universal application. The principle of *uti possidetis* applied to the Yugoslav case after the secession of the republics. Until the Yugoslav crisis *uti possidetis* applied to the cases before the secession took place in order to protect the territorial integrity of states. But in the Yugoslav case this principle did not apply to prevent the disintegration of Yugoslavia but in order to protect the territorial integrity of newly seceded entities. Its application outside the context of Africa has shown us that it had become a precedent for future secessionist entities. The Yugoslav case has shown us that frontiers can only be changed through negotiated settlement, if not the principle of *uti possidetis* applies to the case.

The second contribution of the Yugoslav case is the issue of minorities. During the decolonization process there was no special emphasis for the protection of minority rights. But with the Yugoslav case this issue has gained importance and protection of minority rights were put as a precondition before recognition. The Badinter commission declared that the Serbian population in Bosnia-Herzegovina and Croatia were entitled to all the rights accorded to minorities and ethnic groups under international law and the secessionist entities which do not satisfy this criteria will not be recognized. This has shown that the protection of the rights of minorities has become an important criteria for the seceding entities.

The third one is a very controversial issue. Before the crisis only the peoples of colonies and non-self-governing territories were regarded as having the right of self-determination. . For the first time, a federal entity disintegrated without the approval of the federal authorities and this was approved by the UN and the EC. This case contradicts with the secessionist crisis in the Federal State of Nigeria, where the demands of the Biafrans were not recognized. Now we can put forward that Yugoslavia created a precedent for the future federalist cases. As the Yugoslav case has shown us we have not yet been able to develop international law with a universal application to the question of "which people qualifies for self-determination."

Those breakaway republics are now the members of the world community of states and become members of many international organizations such as the UN, non-aligned movement, but some countries abstained to recognize those secessionist republics. For example in early March 1992 when the Croatian foreign minister Zvonimir Šeparović visited the Far East, he failed to obtain recognition from China, which was concerned with own secessionist movements in Tibet and Sinkiang (Eastern Turkistan) (1).

The disintegration process in Yugoslavia raised many questions. The most important of all, whether secession of those republics will trigger a worldwide epidemic of successful secessions and a wave of new states? But we have to take into account that there exists almost limitless numbers of ethnic communities and peoples, and the globe is too small to provide each of them full sovereignty over a piece of land (2). A compromise is hard to be reached on a global level. On the other hand, at the regional level, at least in Europe, the issue of revision of borders has been accepted, through the mutual consent of the countries through

a negotiated settlement (3). But at other regional perspectives, such a concept has not been developed. As the British Foreign Secretary Douglas Hurd explains, "We all know that boundaries can be artificial, they can be inconvenient, but those of us who have studied these matters know that when the countries of Africa became independent they laid down in the Organization of African Unity the wise principle that despite the artificiality, ... those boundaries should be respected" (4). But according to him this does not mean that some entities will not have such a right; "well defined entities like the Baltic republics could reach independence through negotiation" (5). There is nothing in international law to suggest that the international community could have any legitimate objection to a negotiated settlement for any secessionist conflict, namely partition. Federal structures are not limited only to Eastern Europe, they exist on all regional state structure. In a decentralized world in which the effective power of participants is patently discrepant, decisions in support of or in rejection of particular claims of self-determination will remain essentially decentralized, in the absence of collective decision (6).

The territorial status-quo which had been shaped during the Cold War years has changed. But there are no signs that the changes in the established normative structure will apply to the cases other than those in Europe. The call of the Iraqi Kurds, Tibetans, Turkish Cypriots and other peoples for self-determination remains unanswered under the concept of territorial integrity of states. Besides, there is no indication that the territorial status-quo established in Africa during the decolonization period is on the verge of change. One can claim that Eritrean independence is an example for such a change. The special status of Eritrean territory conflicts with this. Eritrea was originally a non-self-governing territory, hence, a self determination unit. Initially the UN formed a federation

between Eritrea and Ethiopia. In 1962, Eritrea was annexed by Ethiopia and became a province of Ethiopia. Since then, the civil war had been going on and it was won by the Eritreans. Then with a plebiscite which was supervised by the UN, the Eritreans decided for independence. Because of this special status of the territory, one has to approach this case with caution. Another similar case is the annexation of East Timor by Indonesia which was a non-self-governing territory. The UN did not recognize the annexation and called for respect for self-determination and the territorial integrity of the people living in East Timor. The problem is still continuing and has not yet been solved in legal terms. The UN approach to these cases is limited with non-self-governing territories and self-determination is regarded as a right only for the peoples living in such territories.

For the future, there seems to be common points that can be reached on the global level, without violating the territorial integrity of states. Every secession is born with its own secessionist demand and may face problems in the future, because minorities are also trapped in those states such as the Serbian minority in Croatia, Russian minority in Moldavia and so on. Instead of giving every ethnic group a right to establish their separate state, the world community of states can establish some common norms for the protection of these minorities' cultural and democratic demands without violating the territorial integrity of those states.

We have been able to agree on some fundamentals in the CSCE, the Council of Europe and, to some extent in the United Nations -- namely, to tolerate and indeed respect the diverse cultures in a country, to promote the rights as well as the identity of culturally distinct minorities; and to regard cultural pluralism as essential to a democratic society (7).

In this respect, we can expect a development of the concept of "internal" aspect of self-determination on a global level. But it must not be forgotten that, self-determination is not a one shot affair. The attainment of internal aspect of self-determination does not foreclose human aspirations to search for independence. Self-determination is an ongoing process for peoples to forge and express their shared identity and destiny under ever-changing conditions (8). Therefore a delicate balance which will prevent any future clashes must be established between the self-determination of peoples and the territorial integrity of states.

As can be seen, conservatism towards the concept of self-determination still continues. Each region has different interpretations of the concepts of the territorial integrity of states and self-determination of peoples. In Europe, there is a more liberal approach towards minority rights and self-determination of peoples, but in Africa and other Third World countries the artificial borders and the undemocratic nature of governments remain as a barrier between these concepts. Other than the CSCE mechanism, there is not an effective organization for the protection of minority rights on a global level. Therefore, in the near future, demands for self-determination will be interpreted on regional level, depending on the region's political problems and interests.

NOTES

INTRODUCTION

1. Michael Akehurst , **A Modern Introduction to International Law**, (London: George & Unwin, 1987), p.290.
2. Lung-Chu Chen , **An Intrduction to International Law**, (New Haven & London: Yale University Press, 1989), pp.31-32.
3. Ruth Lapidoth , "Sovereignty in Transition", **Journal of International Affairs**, Vol. 45, No: 2, Winter 1992, p.336.
4. M.Zaim Necatigil, **The Cyprus Question and the Turkish Position in International Law: Self-determination**, (Oxford University Press, 1989), pp.179-180.
5. Hurst Hannum, **Autonomy, Sovereignty, and Self-Determination**, (Philadelphia: University of Pennslyvania Press, 1990), p.49.
6. Western Sahara, Advisory Opinion, I.C.J. Reports 1975, p.24.
7. Necatigil, supra note 4, p.180.
8. Chen , supra note 2, p.32.
9. Lapidoth, supra note 3, p.336.
10. Hüseyin Pazarıcı , **Uluslararası Hukuk Dersleri II.Kitap**, (Ankara: Turhan Kitabevi, 1990) P.17

PART ONE

1. Heater Wilson, **International Law and the use of Force by National Liberation Movements; Self-Determination in International Law**, (Oxford: Clarendon Press, 1988), p.55.

2. Pazarcı, p.8
3. Hannum, p.28.
4. Chen , p.32.
5. Lapidoth, p.336.
6. James Mayall , "Nationalism and International security after the Cold War", *Survival*, Vol.34. No.1, Spring 1992, p.20.
7. M.N. Shaw , *International Law*, (Cambridge: Grotius Publication LTD, 1986), p.157.
8. Hannum, p.32.
9. V.I. Lenin , *Critical Remarks on the National Question*, (Moscow: Progress Publishers, 1971), pp.102-103.
10. Hannum, p.96.
11. Wilson, p.57.
12. Namibia Case, I.C.J. Reports, 1971, pp.28-32.
13. Wilson, p.56.
14. Allen Buchanan , "Self-Determination and the Right to Secede", *Journal of International Affairs*, Vol. 45, No.2, Winter 1992, p.349.
15. William E. Rappard, *World Affairs*, (New York: The Yale University Press, 1972), p.47.
16. E.H. Carr, *International Relations Between the Two World Wars*, (Great Britain: Redwood Burn, 1973), p.6.
17. Carr, p.216.

18. Hannum, p.29.
19. Ibid., p.29.
20. Shaw., p.157.
21. Ibid., p.157.
22. Wilson, p.57.
23. Mayall, p.24.
24. James Mayall, "Non-intervention, self-determination and the 'new world order'", **International Affairs**, Volume 67, No.3, July 1991, p.424.
25. Hannum, p.33.
26. Lapidoth, p.337.
27. Mayall, p.20.
28. Ibid., p.20.
29. Reneo Lukic, "Twilight of the Federations in East Central Europe and the Soviet Union", **Journal of International Affairs**, Vol.45, No.2, Winter 1992, p.577.
30. Documents of the United Nations Conference on International Organization, vol. 6 (1945), p. 296.
31. Wilson, p.61.
32. Ibid., p.61.
33. Mayall, supra note , p.20.
34. Wilson, p.20
35. Shaw, pp.157-158.
36. Necatigil, p.177.

37. Alexis Heraclides, **The Self-Determination of Minorities in International Politics**, (London: Franc Class and Company Limited, 1991), p.21.
38. UN General Assembly Res. 2625 (XXV), 24 October, 1970.
39. Wilson, p. 77
40. Belatchew Asrat, **Prohibition of force under the UN Charter**, (Sweden: Swedish Institute of International Law, 1991) P.70
41. Shaw, pp.160-161
42. Western Sahara, ICJ Report. Seperate Opinion of Judge Petren, P. 111
43. Wilson, p.77
44. Kiwonuka, "The Meanning of Peoples in the African Charter on Human and Peoples Rights", **American Journal of International Law** vol 82,1988, pp.88-89
45. Charter of the OAU, Art 2(1)
46. Gino J. Naldi , **The Organization of African Unity**, (London: Mansell 1989) P.9
47. Heraclides, p.405
48. Charter of the Islamic Conference, Art II, Clause 3
49. Wilson, p.78
50. Necatigil, p.183.
51. Ibid., p.183.
52. Shaw, p.157.
53. Ali L. Karaosmanoğlu , **İç çatışmaların Çözümü ve Ulusla-**

rarası Örgütler, (Boğaziçi Üniversitesi, İstanbul 1981) P.76

54. Hamza Eroğlu, **Devletler Umumi Hukuku**, (Adam yayıncılık, Ankara) p.101
55. Resolutions 1514 (XV), 2625 (XXV), 3382 (XXX).
56. Necatigil, p.183.
57. Hannum, p.45.
58. Hannum, p.46.
59. Heraclides, supra note, p.22.
60. Western Sahara, Seperate opinion of Judge Petren, ICJ reports, p.110.
61. Asrat, p.,148
62. Karaosmanoğlu, P..77
63. Pazarcı, P.17
64. Karaosmanoğlu, p.77
65. According to Art 77 (1) of the Charter trussteeship system shall apply to such territories; territories held under mandate; territories which may be detached from enemy States as a result of the Second World War; and territories voluntarily placed under the system by States responsible for their administration.
66. G.A. Res. 1514 (XV)
67. G.A .Res. 2625 (XXX)
68. Karel C. Wellens , **Resolutions and Statements of the United Nationas Securtiy Conucil**, (The Hague : T.M.C Asser Instituut,1990) P.31

69. UN Security Council Res. 146 (1960) August 1960
70. UN Security Council Res.161 (1961) Clause 1, 21 February 1961
71. Alexis Heraclides, "Secession, Self-Determination and Nonintervention", **Journal of International Affairs** ,Vol 45 No:2, Winter 1992, P.406
72. Hannum ,P.46. There was secessionist attempts in East Pakistan. On 4 December 1971, India declared war on Pakistan and the Pakistan Army surrendered in East Pakistan.
73. Look G.A. Res. 2793 (XXVI), 7 december 1971
74. Naldi, pp.8-9
75. Karaosmanoğlu, p.81
76. Mayall, supra note 6 P.21
77. Baskın Oran, **Az gelişmiş Ülke Milliyetçiliği -Kara Afrika Modeli**, (Siyasal Bilgiler Fakültesi yayınları ,1977, no:396) P.199
78. Naldi, p.9
79. Burkoni Faso-Mali Case 1C5 Report p.554
80. Naldi, p.10
81. Lapidoth ,p.341
82. Wilson, p.84
83. Naldi, p.81
84. Ibid., p.37.
85. Wilson, p.84

86. Naldi, p.86
87. James Gow, "Deconstructing Yugoslavia" ,*Survival* ,vol.XXXIII no:4 July/August P.307
88. Charter of Paris ,19 November 1990
89. Heraclides, supra note 48,. p.23
90. Pazarcı, P.17
91. Ergun Özdebun , "Constitutional Law " in **Introduction to Turkish law**, Tuğrul Ansay and Don Wallace Jr. (Ankara, 1987) p.34
92. Heraclides, supra note 69, p.405
93. Other limitations which put forward are sovereign equality and independence of states
94. Heraclides, supra note,36 p.21
95. Buchanan, p.350
96. Chen, p.39

PART TWO

1. **Yugoslavia: A Country Study**, (Washington: The American University, 1982) p.3.
2. Ibid., p.3,
3. Bogomilism - which rejected institutionalized religion and Church hierarchy, and often lived in small communities.
4. Alexis Djilas, **The Contested Country**, (Harvard University Press, 1991), p.10.

5. Ivo Banac, *The National Question in Yugoslavia*, (Cornell University Press, 1984), p.64.
6. *Ibid.*, p.65.
7. *Ibid.*, p.65.
8. *Yugoslavia: A Country Study*, p.10.
9. Ustase-members of an extremist Croatian movement that adopted fascist guidelines and collaborated with German and Italian occupation forces during World War II. They were Catholic, anti-Semitic, and anti-Serbian. Engaged in genocidal practices against Serbs in Croatia and Bosnia and Herzegovina.
10. Partisan - popular name for communist resistance forces Led by Josip Tito during World War II.
11. *Yugoslavia*, p.35.
12. Gow, p.294.
13. Fertila Bogomil, "Yugoslavia: Confederation or Disintegration." *Problems of Communism*, Vol. XL, July-August 1991, p.105.
14. Gow, p.294.
15. Bogomil, p.19.
16. Heraclides, sura note 69, p.407.
17. Gow, p.294.
18. *Ibid.*, p.294.
19. *Yugoslavia: A country study*, (Washington: The American University, 1982), p.15.
20. Gow, p.292.

21. Bogomil, p.20.
22. Gow, p.292.
23. Ibid., p.292.
24. Ibid., p.295.
25. Ibid., p.296.
26. Bogomil, p.18.
27. Ibid., p.19.
28. Gow, p.297.
29. Ibid., p.298.
30. Keesings Record of World Events, Vol. 37, No.1, p.27971.
31. Facts on File, Vol. 51, No. 2623, 28 February 1991.
32. Keesings, Vol.37, No.2, February 1991, p.38019.
33. Ibid., p.38019.
34. Ibid., p.38019.
35. Keesings, Vol. 37, No.5, May 1991, p.38203.
36. Ibid., p.38203.
37. Ibid., p.38203.
38. Keesings, Vol. 37, No.6, June 1991, p.38274.
39. Ibid., p.38275.
40. Facts on File, Vol 51, No.2639, 20 June 1991, p.466.
41. Ibid., 466.
42. Ibid., 467.
43. Keesings, Vol. 37, No.6, Sune 1991, p.38274.

44. Ibid., p.38274.
45. Keesings, Vol. 37, No.10, October 1991, p.38513.
46. Ibid., p.38513.
47. Ibid., p.38514.
48. Ibid., p.38514.
49. Ibid., p.38515.
50. Facts on File, Vol. 51, No.2660, 14 November 1991, p.859.
51. Ibid., p.859.
52. Keesings, Vol. 37, No.12, December 1991, p.38684.
53. Ibid., p.38684.
54. Ibid., p.38684.
55. Ibid., p.38684.
56. Keesings, Vol. 38, No.1, February 1991, p.38703.
57. Ibid., p.38704.
58. Ibid., p.38704.
59. Keesings, Volume 38, No.2, March 1991, p.38815.
60. Keesings, February 1992, p.38703.
61. Only the international organizations and states which referred to territorial integrity and self-determination are cited.
62. Richard Weitz, "The CSCE and the Yugoslav Conflict", RFE/RL Research Report, Vol. 1, No.5, January 1992, p.25.
63. Gow, p.307.
64. Weitz, p.24.

65. Ibid., p.24.
66. Ibid., p.24.
67. Ibid., p.25.
68. Gregory F. Treverton, "The New Europe", **Foreign Affairs**, Vol. 71, No.1, 1991/1992, p.103.
69. Gow,p.307.
70. Treverton, p.103.
71. Poul Shoup , "The UN Force : A New Actor in the Croatian Serbian Crisis, **RFE/RL Reseach**, Vol:1 No:13 27, March 1992 P.17
72. Ibid., P.18.
73. Security Council Res. 713 (25 September 1991).
74. Security Council 3009th meeting, 54/5309 (25 September 1991).
75. SC Res. 721 (27 November 1991).
76. SC Res. 724 (15 December 1991).
77. SC Res. 743 (21 February 1992)
78. Statement by the President of the Security Council at 3070th meeting (24 April 1992).
79. SC Res. 752 (15 May 1992)
80. SC 753, SC 754 (18 May 1992), SC 755 (20 May 1992)
81. SC Res. 757 (30 May 1992)
82. Paul Shoup, "The UN Force: A New Actor in the Croatian-Serbian Crisis", **RFE/RL Research**, Vol.1, No.13, 27 March 1992, p.18

83. Treverton, p.104.
84. Ibid., p.104.
85. Keesings, Vol. 37, No.5, May 1991, p.38163.
86. Keesings, Vol.37, No.6, June 1991, p.38275.
87. Keesings, Vol.37, No.7, Suly 1991, p.38275.
88. European Report, No.1692, July 10, 1991, p.2.
89. European Parliament Resolution on Yugoslavia, clause 8, 13 March, 1991.
90. Decleration on Yugoslavia, European Political Cooperation, Press Release, 19 September 1991.
91. Treverton, p.104.
92. Keesings, May 1991, p.38163.
93. Keesings, Vol.37, No.11, November 1991, p.38164
94. Shoup, p.17.
95. European Report, No.1730, December 25, 1991, p.1.
96. Ibid., p.2.
97. This is related with Greece's fear that the term "Macedonia" was part of the Greek patrimony and that the state calling it-self the "Republic of Macedonia" was by definition stating that it had claims on Greek territory.
98. Ibid., p.2.
99. Shoup, p.17.
100. Badinter Commission was attached to the Peace Conference which initiated by the EC. It was an arbitration commission,

headed by the French Constitutional Lawyer, Robert Badinter.

101. Badinter Commission, Avis, No.2, 14 January, 1992.
102. Badinter Commission, Avis, No.2, 14 January, 1992.
103. Interview with "Hans-Dietrich Genscher", **European Affairs**, Vol.5, No.5, Oct/Nov. 1991, p.33.
104. Ibid., p.33.
105. Gow, p.305.
106. Ibid., p.305.
107. Jonathan Eyal , "The Yugoslav Crisis and the Search for security in Eastern Europe", **Harvard International**, Vol. XIV, No.1, Fall 1991, p.33.
108. P. Moore, "The International Relations of the Yugoslav Area", **RFE/RL Research Report**, Vol.1, No.18, 1 May 1992, p.9.
109. Eyal, p.3.
110. Moore, p.10.
111. Keesings, June 1991, p.38275.
112. James E. Goodby, "Peacekeeping in the New Europe", **The Washington Quarterly**, Vol. 15, No.2, Spring 1992, pp.154-155.
113. European Report, No.1726, 4 December 1991, p.8.
114. BBC Monitoring, Eastern Europe, EE/1298, 7 February 1992, p.2.
115. Ibid., p.3.
116. Mayall, *supra* note 6, p.34.

117. Ibid., p.34.

118. Patrick Moore, "Diplomatic Recognition of Croatia and Slovenia", RFE/RL Research Report, Vol.1, No.4, 24 January 1992, p.10.

119. Mayall, supra note 6, p.24.

120. Ibid., p.24.

CONCLUSION

1. Moore, supra note 118, p.10.
2. Lapidoth, p.345.
3. Final Act of Helsinki, Art 1.
4. Mayall, supra note 24, p.424.
5. Ibid., p.424.,
6. Chen , p.36.
7. Heraclides, supra note 69, p.410.
8. Chen , p.35.

BIBLIOGRAPHY

Books

- Akehurst, Michael, **A Modern Introduction to International Law**, (London: George & Unwin, 1987).
- Asrat, Belatchew, **Prohibition of Force Under The UN Charter**, (Sweden: Swedish Institute of International Law 1991)
- Banac, Ivo, **The National Question in Yugoslavia**, (Cornell University Press, 1984).
- Chen, Lung-Chu, **An Introduction to International Law**, (New Haven & London: Yale University Press, 1989).
- Carr, E.H., **International Relations Between the Two World Wars**, (Great Britain: Redwood Burn, 1973).
- Djilas, Alexis, **The Contested Country**, (Harvard University Press, 1991).
- Eroğlu, Hamza, **Devletler Umumi Hukuku**, (Adam Yayıncılık Ankara 1991)
- Hannum, Hurst, **Autonomy, Sovereignty, and Self-Determination**, (Philadelphia: University of Pennsylvania Press, 1990).
- Heraclides, Alexis, **The Self-Determination of Minorities in International Politics**, (London: Franc Class and Company Limited, 1991).
- Karaosmanoğlu, Ali L., **İç Çatışmaların Çözümü ve Uluslararası Örgütler**, (İstanbul: Boğaziçi Üniversitesi, 1981).
- Lenin, V.I., **Critical Remarks on the National Question**,

(Moscow: Progress Publishers, 1971).

Naldi, Gino J., **The Organization of African Unity**, (London: Mansell, 1989).

Necatigil ,M. Zaim, **The Cyprus Question and the Turkish Position in International Law**, (Oxford University Press, 1989).

Oran, Baskın, **Az gelişmiş Ülke Milliyetçiliği - Kara Afrika Modeli**, (Siyasal Bilgiler Fakültesi Yayınları, No.396, 1977).

Özbudun, Ergun "Constitutional Law" in **Introduction to Turkish law**, Tuğrul Ansay and Don Wallace Jr.(Ankara; 1987)

Pazarcı, Hüseyin, **Uluslararası Hukuk Dersleri II.Kitap**, (Ankara: Turhan Kitabevi 1990)

Rappard, William E., **World Affairs**, (New York: The Yale University Press, 1972).

Shaw, M.N., **International Law**, (Cambridge: Grotius Publication LTD, 1986).

Wellens, Karel C., **Resolutions and Statements of the United Nations Security Council (1946-1989)**, (The Hague: T.M.C. Asser Instituut, 1990).

Wilson, Heater, **International Law and the use of Force by National Liberation Movements: Self-Determination in International Law**, (Oxford: Clarendon Press, 1988).

Yugoslavia: A Country Study, (Washington: The American University, 1982).

Articles

Buchanan, Allen, "Self-Determination and the Right to Secede", **Journal of International Affairs**, Vol. 34, No.2, Winter 1992.

Bogomil, Fertila, "Yugoslavia: Confederation or Disintegration?" **Problems of Communism**, Vol.XL, July-August 1991.

Eyal, Jonathan, "The Yugoslav Crisis and the Search for Security in Eastern Europe", **Harvard International**, Vol. XIV, No.1, Fall 1991.

Goodby, James E., "Peacekeeping in the New Europe", **The Washington Quarterly**, Vol.15, No.2, Spring 1992.

Gow, James, "Deconstructing Yugoslavia", **Survival**, Vol. XXXIII No.4, July / August 1991.

Heraclides, Alexis, "Secession, Self-Determination and Nonintervention", **Journal of International Affairs**, Vol. 45, No.2, Winter 1992.

Kiwanuka, "The Meaning of Peoples in the African Charter on Human and Peoples Rights", **American Journal of International Law**, Vol.82, 1988.

Lapidoth, Ruth, "Sovereignty in Transition", **Journal of International Affairs**, Vol. 45, No.2, Winter 1992.

Lukic, Reneo, "Twilight of the Federations in East Central Europe and the Soviet Union", **Journal of International Affairs**, Vol. 45, No.2, Winter 1992.

Mayall, James, "Nationalism and International security after the Cold War", **Survival**, Vol.34, No.1, Spring 1992.

Mayall, James, "non-intervention, self-determination and the new world order", *International Affairs*, Volume 67, No.3, July 1991.

Moore, P., "The International Relations of the Yugoslav Area", *RFE/RL Research Report*, Vol.1, No.18, 1 May 1992.

Moore, P., "Diplomatic Recognition of Croatia and Slovenia", *RFE/RL Research Report*, Vol.1, No.4, 24 January 1992.

Shoup, Paul, "The UN Force: A New Actor in the Croatian Serbian Crisis", *RFE/RL Research Report*, Vol.1, No.13, 27 March 1992.

Treverton Gregory F., "The New Europe", *Foreign Affairs*, Vol.71, No.1, 1991/1992.

Weitz, Richard, "The CSCE and the Yugoslav Conflict", *RFE/RL Research Report*, Vol.1, No.5, January 1992.